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REMARKS

Claims 1-18 are currently pending in this application, with claims 1, 17 and 18 amended, and claim 19 cancelled herein. No new matter is added by these amendments.

Claims 1-3 and 17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,754,221 to Whitcher et al.; claims 4-5 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitcher et al. in view of U.S. Patent No. 6,760,309 to Rochberger et al.; claims 6 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitcher et al. in view of U.S. Patent No. 6,868,094 to Bordonaro et al.; claims 7 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitcher et al. in view of Bordonaro et al. and further in view of U.S. Patent No. 6,816,464 to Scott et al.; claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitcher et al. in view of Rochberger et al. and further in view of Scott et al.; and claims 12-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitcher et al. in view of Scott et al.; and claim 16 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Whitcher et al. in view of Scott et al. and further in view of U.S. Patent No. 6,466,548 to Fitzgerald. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,738,351 to Qureshi in view of Whitcher et al. Finally, claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,738,351 to Qureshi in view of Whitcher et al. and further view of U.S. Patent No. 7,069,342 to Biederman. The rejections are now traversed for at least the following reasons:

As best understood, Whitcher teaches in Fig. 1 a gateway system for communicating telecommunication information between a telecommunication network 12 and a customer

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premises equipment 14. The system selects a compression algorithm according to the available bandwidth. Specifically, as shown in Fig. 2, the system in Whitcher has the management module 100 determine the bandwidth available to communicate the telecommunication information to a customer premises equipment 14, and select a compression algorithm according to the available results. In addition, at col. 8, lines 57-61 Whitcher states that the management module 100 assigns 65 kilobits per second time slots to each subscriber serviced by gateway 18 and stores subscriber profiles associating the assigned time slots with the subscribers in memory 102. Whitcher teaches in Fig. 3 a table, stored in memory 102, of customer premises information associating each customer premises equipment with bandwidth and compression information. As is apparent from Fig. 3, the bandwidth taught by Whitcher is predetermined for each customer premises equipment and stored in memory 102.

In contrast to the teachings in Whitcher, the gateway apparatus of the applicant's invention is provided to determine, at a time of establishing a connection, network-state information of the IP network based on the RTCP(real-time transport control protocol) packets that are periodically sent from a second gateway apparatus via the IP network and received at the packet processing unit. Details of this operation are provided in the instant application at page 10, lines 11-15. Specifically, in the gateway apparatus of the instantly claimed invention, the network-state information of the IP network based on the received RTCP packets from the packet processing unit, and the determination unit controls, before the transmission of the IP packets, at least the encoding of the voice data by the encoding processing unit based on the network-state information of the IP network determined by the network-state estimation unit. The IP packets to be transmitted to the IP network are processed according to the network-state

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information indicating the state of the IP network, independently of the network state of other networks.

It is respectfully submitted that the relied upon portions of Whitcher do not teach or suggest the above mentioned feature of "receiving real-time transport control protocol (RTCP) packets from a second gateway apparatus, and determining network-state information of the IP network based on the received RTCP packets," as recited in claims 1 and 17 as amended. Further it is submitted that these features cannot be found in the relied upon portions of the other cited references. Accordingly, it is submitted that independent claims 1 and 17 patentably distinguish over the relied upon portions of the cited references and are allowable.

With respect to claim 18, as taught on page 13, line 30 – page 14, line 4 of the application, a notice of a CODEC type level change is transmitted from the gateway apparatus 11 to the receiver gateway apparatus 18. It is respectfully submitted that neither Qureshi nor Whitcher teach or suggest informing a change in the encoding controlled by the determination unit from the communication apparatus to the second communication apparatus by using a packet generated by the packet processing unit, as recited in claim 18 as amended. Accordingly, claim 18 patentably distinguishes over the relied upon portions of the cited references and is allowable.

With respect to claims 2-16, which depend from allowable claim 1, it is submitted that each of these claims distinguish over the cited references for at least the same reasons as claim 1, and are similarly allowable.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider

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this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,



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